

**CITY OF BOWBELLS**  
**DEVELOPMENT CODES**  
**NOVEMBER 2011**

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## **8.1 GENERAL PROVISIONS AND ENFORCEMENT**

### **8.1.1 Authority**

This title is adopted pursuant to authority granted by state law and the City of Bowbells Home Rule Charter. The provisions of this title are in addition to the regulations of the state and county and are supplemental thereto.

### **8.1.2 Applicability**

The provisions of this title shall apply to all subdivision and development of land within the City of Bowbells.

### **8.1.3 Purpose**

This title shall have as its purpose the following standards and principles:

1. To provide for the future growth and orderly development of the City of Bowbells
2. To preserve, promote and protect the convenience, health, safety and general welfare of its people
3. To provide for the construction and installation of adequate improvements and facilities designed to meet the demands and purpose for which they are to be used
4. To provide for adequate public services
5. To provide for uniformity of constructed improvements, including street widths and property accesses
6. To minimize traffic congestion and safety hazards
7. To provide for a permanently wholesome community environment
8. To promote orderly and legal property division by requiring that subdivided land be properly monument and recorded
9. To prevent the subdivision of lands which are subject to flash flooding or otherwise unsuitable for subdivision

### **8.1.4 Submission of Preliminary Plat to Planning Commission**

Wherever a subdivision of land, for residential purposes, consisting of more than four lots, or any subdivision of land for commercial or industrial purposes as herein defined, is laid out within or partially within the said incorporated territory, the developer or his agent shall submit a preliminary plat thereof to the Planning Commission. The maps and all procedures relating thereto shall, in all aspects, be in full compliance with the provisions of state and county statute any amendments thereto and the regulations hereinafter contained in this title.

### **8.1.5 Conformance to Precise Plans and Zoning Code**

Any and all subdivision of land shall conform to the municipal zoning codes, provided however, that where this title imposes higher standards or is more restrictive, the requirements of this title shall prevail.

### **8.1.6 Conformance to Master Plans**

The subdivision of land or dedication for streets, highways, flood channels, parks or other public use shall conform to the city's master plan documents, including, without limitation, the land use master plan, and master plan of streets and highways.

### **8.1.7 Sale Prior to Recording**

It is unlawful for any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity, as principal, agent, or otherwise, to sell, offer for sale, or cause to permit to be sold or offered for sale, any portion of any subdivision (subdivision being defined as set forth in this title) of land except for land contained within a commercial or industrial subdivision in the city, prior to the recording of the final subdivision plat map in the office of the county recorder.

### **8.1.8 Powers and Duties of Planning Commission**

The Planning Commission shall have all the powers and duties with respect to the filing of preliminary plats, making investigations and reports on design and improvements, and making final decisions on tentative maps and establishing procedures related to the processing thereof which are specified by law and this title. The Planning Commission does not have the authority to make decisions contrary to generally known and accepted engineering practices and life-safety standards or in conflict with adopted ordinances.

### **8.1.9 Powers and Duties of the City Auditor**

The city auditor does not have the authority to make decisions contrary to generally known and accepted engineering practices and life-safety standards or in conflict with adopted ordinances and standards.

If so designated by the city council, the city auditor or, in his or her absence, any person designated as acting auditor, has the authority to accept and release, on behalf of the city, all off-site improvements agreements and sureties required pursuant to this code to develop land within the city. The auditor, or his designee, shall notify the city council whenever an off-site improvement agreement or surety is accepted or released.

### **8.1.10 Interpretation, Purpose and Conflict**

The provisions of this title shall be interpreted and applied liberally so as to promote public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this title to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, where this title imposes a greater restriction upon the use of premises or requires larger space than is imposed or required by other ordinances, rules, or regulations, or by easements, covenants or agreements, the provisions of this title shall govern.

### **8.1.11 Suspension of Provisions or Requirements**

A suspension of any requirement of this title may be granted by the city council in any particular case upon the recommendation of the Planning Commission, or the city auditor. Application for such suspension must show that there are special circumstances or conditions affecting the property in

question and that a suspension will not be materially detrimental to the public welfare, contrary to generally known and accepted engineering practices or materially injurious to property within the area.

### **8.1.12 Compliance with Conditions**

When exceptions to this title are authorized, the city council shall require such evidence or guarantees as it deems necessary to ensure compliance with the approved conditions.

### **8.1.13 Appeals to Planning Commission**

- A. General. Where it is alleged by an applicant that there is an error in any order, requirements, decision or refusal made by an administrative official or agency based on or made in the enforcement of this title or of any ordinance adopted pursuant thereto, or any other requirement of a city department not covered by a particular code, an appeal may be made as prescribed in the following section.
- B. Appeals to the Planning Commission. Said appeal shall be made to the Planning Commission in the following manner:
  - a. Application. The applicant shall state in a letter to the board the specific requirement that is to be appealed and the circumstances why the requirement is imposing an undue hardship upon the proposed development. Said letter shall be filed with the city auditor. Upon receipt of said letter, the city shall set a date at which such appeal will be heard by the Planning Commission.
  - b. Hearing. All requests for an appeal shall be submitted to the city auditor for a hearing not less than twenty-one (21) calendar days nor more than forty-five (45) calendar days following the filing of the applicant's letter of appeal. The applicant must be present at the meeting at which his appeal will be heard.
  - c. Decision.
    - i. Time. A decision of the Planning Commission shall be made not later than thirty (30) days following receipt of the letter of appeal unless an extension of time is agreed upon by the applicant and the Planning Commission.
    - ii. Form of Decision. The Planning Commission in granting an appeal, may establish conditions under which a condition, requirement or safeguard that the board may consider necessary to the public health, safety and welfare. The Planning Commission may require guarantees to insure compliance with the conditions prescribed in any appeal granted. In the event of a denial by the board, the motion shall set forth the reasons for such denial.
  - d. Filing Fee. To partially defray the cost of making maps, noticing public hearings and other incidental administrative and investigative expenses involved in any application, a nonrefundable fee shall be charged. The amount of the fee shall be established by the City Council on an annual basis. This fee shall be due and payable at the time of filing of the application. No application shall be accepted for processing unless such fee is paid.
- C. Final Action of the Planning Commission. A decision of approval or denial by the Planning Commission shall be made by motion. This motion shall be final on the eighth day following said decision unless an appeal is made to the city council as prescribed in this title.

### **8.1.14 Appeals to the City Council**

1. Filing. Unless otherwise provided herein, an appeal from the decision of the Planning Commission as provided in this section may be taken to the city council by the appellant, the city auditor or his designee, any property owner as shown on the latest tax rolls of the Burke County assessor's office within a radius of one thousand (1000) feet of the exterior boundary of the lot or parcel of land described in the application, or any other person who may establish that his property rights are or may be affected by the decision. Such appeal shall be in writing and shall be filed with the city auditor on forms provided. The appeal shall specify wherein there was error in the decision of the Planning Commission. Additionally, any person filing an appeal from a decision of the Planning Commission on the basis that his property rights are or may be affected by said decision shall include an affidavit stating the nature and location of his property interest and the manner in which this property interest will be affected by the decision being appealed. To partially defray the cost of making maps, noticing public hearings and other incidental administrative and investigative expenses involved in any application, a nonrefundable fee shall be charged. The amount of the fee shall be established by the City Council on an annual basis. This fee shall be due and payable at the time of the filing of the application. No application shall be accepted for processing unless such fee is paid.
2. Automatic Stay. If an appeal is filed within the time specified, it automatically stays proceeding in the matter until determination is made by the city council.
3. Hearing. Upon the filing of the appeal, the city auditor shall set the matter for city council consideration at a hearing. Notice by mail shall be given to all persons who appeared in person or through a representative at the Planning Commission hearing. A hearing de novo shall be conducted by the city council.
4. Decision. A decision by the city council shall be made not later than thirty (30) calendar days following the public hearing at which the appeal is first considered unless continued without objection of the appellant. Planning Commission action shall prevail if the city council fails to make a decision within the prescribed time or agreed upon extension of time.
5. Council Limitations. Upon consideration of such appeal, the city council may, by motion, affirm, reverse, or modify in whole or in part any determination of the Planning Commission subject to the same limitations as are placed upon the Planning Commission by this title.
6. A motion to reverse a Planning Commission decision shall contain a finding of facts showing why the decision was in error.

### **8.1.15 Violation—Penalty**

It is unlawful for any person to violate any provision, or to fail to comply with any of the requirements of this title. Any person violating any provision of this title or failing to comply with any of its requirements, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding one-thousand dollars (\$1,000.00) or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this title is committed, continued or permitted by such person, and he shall be punishable therefor as herein provided.



## 8.2 PRELIMINARY PLATS

### 8.2.1 Preliminary Map

"Preliminary plat" means a map made for the purpose of showing the design of a proposed subdivision and need not be based upon an accurate or detailed final survey of the property. Prior to the filing of the preliminary plat map, the developer is encouraged to file for a task force meeting by submitting a preliminary plat(s) to the city auditor for review and distribution, as deemed appropriate. After the review of the preliminary plat, the planning commission will provide advice and assistance so that changes of design, street alignment, widths, lot arrangement and size, layout and the effects of city plans and ordinances can be incorporated into the proposed subdivision. The preliminary plat shall contain topography not to exceed two foot contour intervals; a layout of adjacent streets, lot layout, location of bike and pedestrian trails; a street design including widths and proposed sidewalks; the number of dwelling units per acre and square footage of the lots; and proposed park and open spaces.

### 8.2.2 Preliminary Plat—Preparation

After the developer has considered the availability and/or cost of electric power, telephone, sewerage, a potable water supply accessibility, and such other improvements as may be required by the city and has reached preliminary conclusions and has decided to continue, he shall cause a tentative map to be prepared by a professional person or persons competent to compile the necessary data in full compliance with this title and in accordance with state law.

### 8.2.3 Preliminary Plat Requirements

The preliminary plat shall contain the following information:

1. The name or title of the proposed subdivision
2. Name, address and phone number of record owner(s) and developer(s)
3. Name and address of the firm and/or individual in responsible charge of the technical correctness of the map. If that person is a design professional in the state of North Dakota, the plans shall be sealed in accordance with the Code of the appropriate discipline
4. Present and required zoning of the proposed subdivision
5. Sufficient legal description of the land which identifies the location, including assessor's parcel number(s), exterior subdivision boundary dimensions and approximate acreage
6. Vicinity map showing project location, including north arrow
7. The date of preparation, the map scale and north arrow
8. A legend shall be shown clarifying all abbreviations, markings and lines delineated on the map. The lettering must be so placed as to be read from the bottom or right-hand side of the sheet and the north arrow directed away from the reader
9. Topography for the entire subdivision, obtained by actual survey, with contour intervals not to exceed two feet on-site and extending one hundred (100) feet beyond the tract boundary. All topography is to be based upon an approved NAVD 88 benchmark, and said benchmark is to be identified thereon

10. Locations, names, present widths and improvements of all existing streets and rights-of-way adjacent to or within three hundred (300) feet of the subdivision tract boundary
11. Adjacent property information, including but not limited to, property lines, subdivision name(s), phase and unit, assessor's parcel numbers, locations of existing structures and facilities, and other existing conditions
12. The proposed subdivision in its entirety, including lot numbers, acreage, and approximate dimensions of each lot, shown at a suitable scale so that all information required thereon is clear and legible
13. The location, names, approximate grades and right-of-way widths of all proposed streets within the proposed subdivision
14. Cross sections of all proposed streets, including pavement widths, sidewalk widths and locations, block wall locations
15. The width, purpose and location of all existing and proposed easements for drainage, sewage, public utilities and other purposes
16. Approximate radii of all curves
17. The location and outline, to scale, of each existing building or other structure within the proposed subdivision, noting whether or not such building or structure is to be removed or remain in the development of the subdivision and other existing physical features which would influence the layout or design
18. The location, size and direction of flow of all existing and proposed water courses, stormwater drainage facilities, culverts, drain pipes and natural drainage channels within three hundred (300) feet of the subdivision tract boundary
19. The location and size of existing and proposed water mains
20. The location and size of existing available public sanitary sewers and the location and size of proposed sewers showing direction of flow
21. Proposed sites to be reserved or dedicated for public parks, schools, playgrounds and/or other public uses
22. Proposed cross-section and locations of all perimeter walls and landscape areas
23. A statement regarding restrictive covenants which the developer intends to enforce
24. The location and description of all existing power, telephone, telecommunications, cable, gas, and other public utility facilities
25. The location and width of bicycle/trail paths and routes as shown on the master plan or adopted specific plans

#### **8.2.4 Preliminary Plat—Filing**

1. At least forty-five (45) working days prior to the date of the meeting of the Planning Commission at which approval is requested, the developer shall submit to the auditor, or his designee, ten (10) copies of the preliminary plat accompanied by a copy of a preliminary title report, not more than thirty (30) days old at the time of submittal, from a title company authorized to do business in the state of North Dakota; showing the names of those parties who are required to sign the subdivision map; listing all encumbrances on the property to be subdivided and including one

copy of each listed document which created an encumbrance or easement on the property to be subdivided.

2. The preliminary plat shall be accepted for filing if it is in full compliance as to form, information and statements required to be furnished therewith in accordance with the terms of this title and state code, and if the prescribed filing fees have been paid. The time of filing of the preliminary plat shall be when the map is accepted by the city auditor, or designee.

### **8.2.5 Tentative Map—Distribution**

1. The city auditor, or designee, shall refer copies of the preliminary plat, copies of the preliminary title report and the owner's statement to the members of the Planning Commission, and additional copies such other departments, agencies, or individuals as deemed advisable. Each department or agency to whom the preliminary plat is referred shall submit to the auditor, or his designee, its recommendations regarding said map within fifteen (15) working days of receipt of the preliminary plat.
2. The city auditor, or its designee, shall analyze the recommendations submitted by the other departments and agencies, coordinate these recommendations and submit final recommendations to the Planning Commission.

### **8.2.6 Land Not Required or Suitable for Public Use; Tentative Map**

Wherever a preliminary plat proposes the dedication of land to public use and the Planning Commission finds that such land is not required or suitable for public use, the commission may refuse to approve said preliminary plat.

### **8.2.7 Planning Commission Action**

The Planning Commission shall review all reports and recommendations within thirty (30) days after the filing of the preliminary plat, and shall approve, conditionally approve or disapprove the preliminary plat.

### **8.2.8 Time Extension**

As provided for in statute, the time limit for acting and reporting on a preliminary plat may be extended upon mutual consent of the developer or designated representative and the Planning Commission.

### **8.2.9 Revised Tentative Map**

Any revised preliminary plat, or portion thereof, filed as a condition of approval or otherwise, shall comply with the requirements in effect at the time such revised map is considered by the Planning Commission. The approval or conditional approval by the Planning Commission of a revised tentative map shall nullify all previous designs thereof.

### **8.2.10 Withdrawal of Tentative Maps**

Any developer of property upon which a preliminary plat has been filed may withdraw such map at any time prior to the action by the Planning Commission. Notice of such request shall be made in writing by the developer and filed with the city auditor, or his designee.

### **8.2.11 Notification of Final Action**

Following the approval, conditional approval or disapproval of the preliminary plat by the Planning Commission, or if appealed, by the city council, the auditor, or its designee shall notify the developer, the city council, or his designee, and other agencies and departments as deemed advisable, of the final action.

### **8.2.12 Appeal of Approval or Denial of Tentative Map**

An appeal of the approval or denial of a preliminary plat by the planning commission may be taken to the city council. However, such an appeal may only be filed by the applicant or city auditor, or its designee.

## **8.3 FINAL PLATS**

### **8.3.1 Preparation**

The requirements for the preparation, presentation and recordation of final plats shall be in accordance with this title, county and state regulations. Failure to record a final plat within two years from the date of final approval of the preliminary plat by the Planning Commission, or if appealed by the city council, shall terminate all proceedings and a new preliminary plat shall be required.

### **8.3.2 Form of Final Plat**

The requirements of a final plat to be approved for recording shall be in accordance with county and state regulations and additional requirements set forth within this title.

1. **Scale and Legend.** The subdivision map shall show a scale which must be large enough to show all details clearly. The legend shall be shown clarifying and identifying all markings and lines delineated upon the plat. The legend must be placed on each map sheet or a note directing the reader to the legend must be placed on each map sheet. The final plat must have a sufficient number of sheets to accomplish this end. Unless specifically authorized by the city, or its designee, the scale of the final map shall not exceed one hundred (100) feet to the inch.
2. **Placement of North Arrow, Text Orientation and Minimum Text Size.** The lettering must be so placed as to be read from the bottom or right-hand side of the sheet and the north arrow shall be directed away from the reader. The minimum text size placed upon the sheet shall be 0.1 inches in height and shall be suitable for reproduction purposes.
3. **Size of Sheets — Margins.** The size of each sheet of the final plat shall be as required by the state of North Dakota and the Burke County recorder's office.
4. **Numbering Sheets.** Each sheet shall be numbered, the relation of one sheet to another sheet clearly shown and the total number of sheets shall be set forth on each sheet.
5. **The final plat must show all surveyed and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including the bearings and distances of straight lines, central angle, radii and arc length for all curves and such information as may be necessary to determine the location of the centers of curves.**

6. Information on Each Sheet. The subdivision name and number, scale and north arrow shall be shown on each sheet.
7. Each Lot Must be Numbered or Lettered. Each street must be named and each block may be numbered or lettered.
8. The exterior boundary of the land included within the subdivision must be indicated by graphic border. The exterior boundary must be clearly and completely annotated and include sufficient ties to the sectional analysis as to be easily traceable.
9. The final plat must show sufficient sectional analysis information to determine the definite location of the subdivision, particularly its relation to surrounding surveys.
10. The final plat must show the area of each lot and the total area of the land in the subdivision in the following manner:
  1. In acres, calculated to the nearest one-hundredth of an acre, if the area is two acres or more
  2. In square feet, if the area is less than two acres
  3. In metric, if required by North Dakota Department of Transportation
11. The final plat must also satisfy any additional survey and map requirements, including the delineation of state plane coordinates for any corner of the subdivision or any point prescribed by this chapter.

### **8.3.3 Title Sheet**

The title sheet shall be page number one and shall contain the following information:

1. Title, comprising the subdivision name and number.
2. Below the title shall be a subtitle consisting of a general description of all the property being subdivided, identified to the one-sixteenth section level if the subdivision is forty (40) acres or less, and to the quarter-section level if the subdivision is greater than forty (40) acres, followed by the words "City of Bowbells, Burke County, North Dakota."
3. Certificates on Final Plat. The title sheet of the final plat shall contain all the certificates required, and be of the form specified by this title, county and state codes and its amendments, and shall contain the name and title printed below the signatures of the signing officials:
  1. Dedication and Ownership Certificate. The dedication and ownership certificate shall offer for dedication all easements, alleys, streets, highways, parks or other public places shown and set forth on the plat and as required, it shall be signed by each person who is an owner of the land, and shall be substantially as set forth per this code, as amended from time to time.
  2. Acknowledgment Certificate. A certificate, when made for an acknowledgment by an individual, corporation, partnership or other entity, shall be in the form as outlined in code and its amendments.
  3. Surveyor's Certificate. On every such plat there shall be a certificate, signed and sealed by a professional land surveyor, making the survey shown on such plat, certifying that he made the survey, or that someone under his direct supervision did so, and that the

work shown, including the setting of stakes, monuments and marks set and all stakes, monuments and marks found, together with the date, are true and complete as shown.

4. City Certificates. Each plat shall bear the certificates of the city, as set forth per this code, as amended from time to time.
5. Certificates of Certain Governmental Entities. Each plat shall bear a certificate as required by statute and shall be as shown per this code, as amended from time to time.

### **8.3.4 Information Required**

The final plat shall clearly and legibly show information in conformity to county and state statute and the following survey data, including:

1. A basis of bearing shall be taken from the North Dakota State Coordinate System, if applicable, or a recorded bearing as recorded in the Burke County recorder's office, if applicable.
2. The basis of bearings shall be shown graphically on the map sheets in addition to the narrative describing the same.
3. All monuments, stakes and other evidences found, set, re-set or replaced, describing their character, kind, size and location.
4. All lot corners of adjoining subdivisions or tracts, together with recording data of adjoining subdivisions or tracts.
5. Corners of all adjoining property identified by lot and block number, subdivision or tract name, place of record or by section, township and range, or other proper designations.
6. The centerlines of all streets in and adjoining the subdivision, indicating all permanent monuments found or placed. If any points were reset by ties, the fact shall be so stated.
7. All information, data and monuments necessary to locate and relocate any and all exterior boundary lines, lot or block lines.
8. All lots and parcels shall have all dimensions, boundaries and courses clearly shown and defined. This includes lots and parcels intended for sale, reserved for private purposes, or offered for dedication for any purpose.
9. The locations, names, total width on each side of the centerline of all public streets, private streets, private drives, alleys and other rights-of-way within the subdivision.
10. The location and width of all easements, public and private, to which the lots are subject. Each easement shall be clearly labeled and identified as to nature and purpose. If easements are already of record, their recorded references shall be given. Distances and bearings on lines of lots which are cut by easements must be so shown that the map will clearly indicate the actual length of the lot line.
11. The location and width of utility rights-of-way located upon private property within the subdivision.
12. Any limitations of rights of access to and from streets and lots and other parcels.
13. The drawing should agree with the written description, but it should not require reference to the written description in order for it to be entirely self-explanatory. Also, the written description must be sufficient to delineate the parcel boundary without reference to the drawing.

14. All common areas must be designated and dimensioned.

### **8.3.5 Survey Requirements**

1. Survey Required. A complete and accurate survey of the land to be subdivided shall be made by a professional land surveyor in accordance with the standard practices and principles of land surveying.
2. Error Limit for Traverse. The traverse of the exterior boundaries of the subdivision and of each block must close within a limit of error of one foot to ten thousand (10,000) feet.
3. Tying in Monuments, Lines. All property lines, monuments, alleys and easements within, or adjacent to, the subdivision shall be tied into the survey.
4. Monuments.
  - A. Monuments shall be set in accordance with the recorded subdivision plats so that the survey, or any part thereof, may be readily retraced. Such monuments shall be set at:
    - I. All angle points in subdivision boundary;
    - II. All angle points of tangency and points of curvature in subdivision boundary;
    - III. All section corners, quarter corners and sixteenth corners;
    - IV. All lot corners must be set. In those instances where off-site improvements exist (i.e., rear property wall and front curb) that make it impractical to set a monument, a nail and tag identifying the surveyor may be set in the wall at the back property corner and a sawcut may be made in the top of the front curb at the prolongation of the side property line.
  - B. All monuments shall conform to city specifications and standard drawings if applicable.

### **8.3.6 Submittal to the City**

1. After approval of the preliminary plat by the Planning Commission or the city council, the following must be submitted to the city auditor:
  - A. Final plat (five copies)
  - B. Application form
  - C. Map checking fee
  - D. Other required documents, as outlined per this code
2. The City shall also review the final plat for conformance to the preliminary plat and applicable city codes and ordinances.
3. The City shall review the final plat for conformance with technical requirements, applicable sections of this title and the planning and zoning ordinance. Concurrently, the developer or his engineer shall provide submittals, as outlined per this code, to the City. Submittals shall include:
  - A. Civil improvement plans
  - B. Payment of improvement plan checking fees
  - C. A drainage study
  - D. A completed special inspection quality assurance agreement
  - E. A completed bond and fee estimate for off-site improvements

4. After the City, or its designee, is satisfied with the civil improvement plan submittals, he shall notify the developer or his engineer to submit the following:
  - A. An off-site improvements agreement (two original copies) signed by the owner or developer
  - B. A cash-in-lieu of bond agreement separate account, a performance, subdivision or off-site improvement bond, a cash deposit or an unconditional and irrevocable letter of credit, signed by the owner or developer, as surety that the off-site improvements will be constructed as approved
  - C. Payment of inspection fees
  - D. Copies of the civil improvement plans
  - E. The original final plat with all outside agency approvals if required

### **8.3.7 Final Plat Approval and Recordation**

1. The City shall present the final plat within 30 days of acceptance to the City Council, or its designee, for approval of conformance to the preliminary plat.
2. After the final plat is in its final form, the City shall obtain all required signatures of city officials on the plat.
3. The developer shall record the final plat, upon final approval of the City, in the office of the Burke County recorder as specified by county and state codes.

### **8.3.8 Pledge of Surety**

After the improvement plans are in their final form, the City, or his designee, will approve an amount of surety of one hundred (100) percent construction costs, plus ten (10) percent for contingencies, based on costs shown on the city's bond and fee estimate, and as may be modified by the City, or his designee, to be filed with the city auditor and accepted by the city council, or his designee, guaranteeing that the proposed improvements will be completed within eighteen (18) months, or within such time period as the City Council, or his designee, may determine to be required for such construction.

### **8.3.9 Agreement with City—Off-site Improvements Account**

The city may enter into a "cash-in-lieu of bond agreement, separate account" with the developer as provided for in this title. This agreement shall provide for the establishment of a separate account by the developer with a financial institution that does business in the state of North Dakota, and is acceptable to and approved by the city. In this separate account shall be deposited a sum equal to the amount that would otherwise have been required by the performance bond as security for the faithful performance of all the terms and conditions of the off-site improvements agreement. This agreement will include the name of the financial institution, account number, dollar amount and name of contact. This agreement will further provide that the funds on deposit in this account for this purpose may be withdrawn only upon draft, or request for withdrawal, signed jointly by the planning commission chair, and an authorized representative, or, jointly by two representatives as authorized by the City Council, or his designee. The agreement will further provide for progress payments to be made to the developer, at the discretion of the planning commission, based upon a percentage of the work completed; however, there shall, at all times, be a ten (10) percent retention on said funds until all of the off-site



improvements called for have been completed and accepted by the planning commission. The agreement shall further include such additional terms and conditions as the planning commission, may deem necessary to ensure the completions of the off-site improvements.

### **8.3.10 Default**

If the construction or installation of any improvements or facilities for which a bond, cash, cash-in-lieu of bond agreement, separate account, or an unconditional and irrevocable letter of credit is accepted, posted or deposited, or not completed by the time substantial completion of the buildings or structures which such improvements or facilities are designed to serve, or within two years of the date of approval of the final plat, whichever is sooner, or if such construction is not in accordance with the applicable standards and specifications prescribed by law, and in the case of a bond, the obligors on the bond shall be liable for the expense incurred thereby, or in the case of a cash deposit or in-lieu of bond agreement, the city may use as much of said funds as is necessary to design, administer and effectuate the construction of such improvements or facilities. If any portion of a cash deposit, in-lieu of bond agreement funds is not required or used by the city, such excess funds shall be repaid to the person making the deposit or released upon acceptance or approval of the improvements or facilities herein required. In the case of a one hundred (100) percent performance, surety or completion bond the surety company shall be liable for the expense incurred thereby.

### **8.3.11 City May Waive Surety**

The city planning commission, may waive the requirements of a surety, to the extent that the improvements are provided for by special improvement assessment district, and provided further that the special improvement assessment district shall have proceeded at least to the point where the city council has determined to proceed with the improvement district. Waiver shall be determined by the city planning commission, setting forth the extent of the waiver, and making reference to the special improvement assessment district providing for the improvements for which the surety is waived.

## **8.4 DESIGN STANDARDS**

### **8.4.1 Applicability**

The standards and principles, as set forth in this chapter, shall apply to all subdivision and development of land within and adjacent to the city of Bowbells.

### **8.4.2 Lots**

All land divisions shall result in the creation of lots capable of being developed or built upon in accordance with the city's zoning regulations.

1. The minimum area and dimensions of all lots shall conform to the requirements of the zoning code for the district in which the subdivision is located.
2. The side lines of lots shall be approximately at right angles to the street upon which the lot faces, or approximately radial if the street is curved.

3. All lots, parks or public ground created shall have ingress and egress to a public or private street meeting the minimum requirements of this code and any adopted street standards of the city for right-of-way widths or paving widths and shall be improved in accordance with the standards for public improvements as set forth in this title and any adopted street and improvements of the city.
4. Double-frontage lots shall be avoided wherever possible.
5. No remnants of land shall be left in the subdivision which do not conform to lot requirements or are not required for a public or private utility.
6. All lots shall have adequate drainage.
7. All lots shall be denied vehicular access to arterial streets, except industrial and commercial lots abutting on an arterial.
8. Lots shall not be divided by a city boundary or another lot, street, alley or any other thoroughfare or property.
9. All single-family residential lots shall abut public or private streets.

#### **8.4.3 Block**

1. Length. Blocks shall not exceed six hundred (600) feet between intersections except where topographical or other conditions require longer blocks. Wherever blocks are longer than six hundred sixty (660) feet, pedestrian crosswalks of not less than ten (10) feet in width shall be required where deemed essential for circulation and access to schools, playgrounds, shopping centers and other community facilities.
2. Widths. Block widths shall be planned to provide two rows of lots, except where lots are planned to back upon a major street, drainage channel, shopping center, etc.; provided, however, that this shall not prevent the inclusion within any subdivision plan of blocks of greater width or irregular outline, which blocks shall be indented by cul-de-sacs, looped access roads, etc., to provide access to the central areas thereof, and said areas may contain public or joint use areas such as parks and playgrounds.
3. Commercial or Industrial Blocks. Commercial or industrial blocks shall be of such length and width as suitable for prospective use, including adequate provisions for off-street parking, deliveries and loading.

#### **8.4.4 Streets to Conform to Master Plan**

The streets in a subdivision shall conform in width and general alignment with that shown or indicated in the applicable portions of the master plan of streets and highways, as adopted, amended or shown on precise plans that have been or will be adopted.

#### **8.4.5 Street Pattern**

The street pattern shall be related to a plan for the most advantageous development of the subdivision as well as adjoining areas and the entire neighborhood or district and shall conform to the natural contour of the land. However, in order to discourage through traffic and high traffic speeds and to increase the salability and stability of the subdivision by preventing monotonous development, local residential and residential collector streets shall be curvilinear rather than straight, whenever possible.

Pedestrian-friendly local street patterns that discourage high traffic speeds are preferred to monotonous development and long blocks.

1. Proposed streets shall be a continuation of and in alignment with existing or recorded streets to which they are connected. At intersections and the centerlines of streets which are not in alignment, there shall be offset at least two hundred (200) feet, as measured from centerline to centerline.
2. Proposed streets planned to extend beyond subdivision boundaries shall be extended to the boundary lines of the land to be divided.
3. In the interest of traffic safety, "T" intersections shall be provided in lieu of four-way intersections wherever the subdivision design will allow or indicate such an option.
4. Local street intersections with arterial streets shall be limited in number and intersection locations shall be designed to provide minimum interference with traffic movement on arterial streets.
5. The means of street access to the proposed subdivisions shall be subject to review and approval by the planning commission, as to the number and location of such access streets.
6. The maximum length of a cul-de-sac shall be five hundred (500) feet, unless otherwise approved by the planning commission, and shall terminate in a circle or other turning pattern which provides an adequate turning area for vehicular traffic at its terminus.
7. All valley gutters constructed on a phase line shall have a cross-pan that extends to the opposite spandrel.
8. Whenever a subdivision has within its boundaries or abuts upon an undedicated and/or unimproved street, the developer shall provide as part of the subdivision, the necessary improvement and/or dedication, as required by the planning commission, for the portion of the street contained within and/or adjacent to the subdivision boundaries.
9. A street lying along a boundary of a subdivision may be dedicated to one-half the required width if, in the opinion of the planning commission, it is practical to require the dedication of the other half when the adjoining property is developed. Such a street portion shall be distinctly designated upon the final plat as being the said portion of a street and not of full width.
10. Whenever an existing subdivision or dedication has provided a dedicated half-street on an adjoining property, the other half shall be dedicated on the proposed plat to make the street full width.
11. Whenever an existing subdivision has provided lots abutting the exterior boundaries, any proposed subdivision should be designed to eliminate the formation of double-frontage lots in either subdivision.
12. Street intersections shall be as nearly at right angles as practicable, unless topography or other considerations make it an impossibility. No such intersection however shall be less than seventy (70) degrees. The curb returns at street intersections shall be rounded as specified in the standard drawings or as required by the planning commission.
13. Every subdivision shall have access to a street dedicated to the city for public use and such street shall be improved in accordance with city standards.

14. Except where the Planning Commission finds impractical or unnecessary, alleys may be provided in connection with business or multiple-family areas, and shall not be less than twenty (20) feet in width.
15. Stub streets are not permitted on public streets.

#### **8.4.6 Street Names**

Street names shall conform to the city adopted street naming and address assignment standards as amended from time to time.

#### **8.4.7 Grades, Curves and Sight Distances.**

Grades, curves and sight distances shall be subject to the approval of the planning commission, and shall be designed to permit safe travel and shall afford safe, unobstructed sight distance.

#### **8.4.8 Public Water and Sanitary Sewer**

Every portion of a subdivision shall be supplied with adequate water and sanitary sewerage facilities. The requirements and arrangement for these shall be given and approved by the city. Said systems and facilities shall be offered for dedication to the city. As-built drawings and profiles of sewer system facilities, per city standards, shall be submitted to the city upon completion of construction

#### **8.4.9 Drainage and Stormwater**

1. Stormwater Drainage. Stormwater drainage shall be provided as required by the planning commission, in accordance with the requirements of the city.
2. General Requirements. Drainage and drainage structures shall be designed and constructed to locally adopted standards to meet local neighborhood needs and protect lots and streets within the subdivision from flood hazards, taking into consideration the drainage patterns of adjacent properties. Where necessary, means shall be provided for disposing of surface water and stormwater beyond the limits of the subdivision. Where the subdivision is traversed by natural watercourse, the developer may be required to dedicate rights-of-way or easements as shall be required for structures or channel changes, or both, to dispose of such surface waters and storm waters and shall improve or agree to improve such rights-of-way or easements as a precedent to acceptance thereof and approval of the final plat. In the case of city master-planned facilities, the developer shall, at a minimum, dedicate the right-of-way for such facilities to the city. Where conditions warrant, a drainage study shall be required by the planning commission.
  1. Where replacement of a natural drainage channel or watercourse by a storm drain is determined unnecessary or impractical, a drainage channel right-of-way shall be dedicated to a width and alignment as required by the city.
  2. The developer shall provide the necessary means to assure complete drainage within and adjacent to his property utilizing public drainage facilities, natural watercourses or other facilities.

#### **8.4.10 Street Lighting and Electric Service**

The electrical distribution systems shall meet city requirements and shall be sufficient to serve the proposed development with streetlights and power to every lot.

1. The developer shall furnish statements from the electric utility company that the company will furnish electric power to any lot within the development upon the demand of any lot purchaser at no cost to the purchaser to bring the service to the lot.
2. Street light standards shall be located in accordance with city requirements and standard drawings.
3. The maximum distance between light standards shall conform to city requirements and standard drawings.
4. Each sheet of street lighting plans submitted to the city, or its designee, shall show the location of each street light standard by centerline stationing; mast arm length; type of light/wattage and gauge of pole; number of streetlights; type of wiring; location of the point at which street lighting circuit is to be connected to existing streetlight circuits and/or new power circuit and circuit load calculations.
5. Street lighting materials, candlepower, illumination and installation shall conform to recommended practice for street and highway lighting as established by the Illuminating Engineers' Society and/or the city.
6. All electrical improvements shall be constructed or installed in accordance with the requirements herein and meet applicable requirements of the following authorities, as required by the city or its designee:
  1. National Electrical Code
  2. American Standards Association
  3. National Electric Light Association
  4. National Electric Safety Code
  5. Underwriters Laboratories, Inc.
  6. Insulated Power Cable Engineers' Association
  7. Illuminating Engineers' Society
  8. Photo electric controls shall be installed to govern operations of all streetlights

#### **8.4.11 Utility Easements**

Uniform and continuous easements shall be provided at all lot lines adjacent to public rights-of-way for utilities service. This easement shall be not less than five (5) feet in width. Also a three (3)-foot easement shall be provided along all side lot lines for ingress and egress to maintain lot services. Any additional easements to be dedicated for utilities and/or public uses shall be as required by the city, or its designee.

#### **8.4.12 Reservation of Community Facility Sites**

Where the land use master plan or other plans for community facilities have been developed for sites located wholly or partly in a subdivision, or where any public facility should be located within the subdivision in order to serve the development and adjacent lands, the developer shall reserve a site

appropriate in area and location for such public facility. The developer shall reserve these community facilities sites for dedication to the public agency involved.

#### **8.4.13 Premature Clearing of Lands**

No lands shall be cleared of vegetation, graded or the natural ground surface thereof otherwise be disturbed so as to create a dust nuisance until a grading permit has been duly issued by the city after complete conformity with requirements for such permit as set forth in the currently adopted standards for the proposed land use construction or development as authorized by this chapter.

#### **8.4.14 Minimum Lot Width, Depth and Area**

Minimum lot width, depths and areas, exclusive of required streets, shall be as required in the zoning ordinance for the respective zoning district in which the subdivision is located.

#### **8.4.15 Street Right-of-Way Widths**

Minimum right-of-way width for streets, public or private, shall be in compliance with the master plan of streets and highways and the latest edition of the standard drawings or as otherwise required by the city, or its designee.

#### **8.4.16 Street Construction**

All streets, alleys, driveways, curbs, sidewalks, etc., whether public or private, shall be constructed in conformance with the latest edition of the standard drawings or as required by the city, or its designee.

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### **8.5 IMPROVEMENTS**

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#### **8.5.1 General Requirements**

The developer shall provide all improvements, or agree in writing to provide all improvements required by this title, prior to acceptance and approval of the requisite civil improvement plans by the city. Such improvements shall include, but not be limited to, the following:

1. Grading, curbs, gutters, berms, paving, drainage and drainage structures necessary for the proper use and drainage of streets, highways and other rights-of-way within, bordering or necessary to serve the development
2. Site grading and drainage, taking into consideration the drainage patterns adjacent to improved or unimproved properties
3. Street name signs, traffic control signs, and pavement markings
4. Sidewalks on all streets, as required
5. Fire hydrants in proper location and in sufficient numbers to provide adequate fire protection, as required
6. A water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate water supply for all lots and proposed occupancies in the subdivision, and to provide adequate fire protection, as required
7. Sanitary sewer facilities and connections for each lot, as required
8. Street lighting and traffic signal facilities, as required

9. Landscaping, fencing and other improvements, as required
10. Dry utility systems (i.e., electrical power, gas, cable TV, telephone, etc.), as required
11. The establishment or re-establishment of survey monuments, as required by the city, county or state

### **8.5.2 Adopted City Standards**

All improvements shall be in accordance with the city standards and specifications as appropriate.

### **8.5.3 Improvement Plans**

The developer shall submit the four sets of prints, as may be required of the plans, profiles, cross-sections, horizontal control plan and specifications for improvements to the city planning commission, for checking and acceptance. The plans, profiles, cross-sections, horizontal control plan and specifications for improvements shall be in accordance with city standards and specifications. The original sealed drawings shall be signed as accepted by the planning commission, only if the plans, profiles, cross-sections, horizontal control plan and specifications for improvements meet the requirements of this title, city standards and specifications, and any and all special requirements that have been required by the City, or his designee.

### **8.5.4 Plans Accepted by the City**

No improvements shall commence until improvement plans and specifications have been accepted by the City, or its designee. Improvements shall be installed in accordance with city standards and specifications to permanent line and grade to the satisfaction of the City, or its designee.

### **8.5.5 City's Release of Building Permits**

1. The City shall not release its hold on building permits prior to the acceptance of the associated civil improvement plans.
2. The City may release its hold on building permits after the building official and/or the planning commission, has determined that civil improvement plans are not required and that the work described in an application for a building permit and the plans, specifications and other data filed therewith conform to the requirements and the technical codes and other pertinent laws and other ordinances, and that all associated fees have been paid.

### **8.5.6 Service Connections to Each Lot**

1. Provision for service connections from utility lines and sanitary sewers shall be made available for each lot in such a manner as will eliminate the necessity of disturbing the street pavement, gutters, culverts, curbs and sidewalks when service connections are made.
2. Lots with individual septic tanks and water facilities shall comply with the requirements of the State Health Department or other appropriate agency.

### **8.5.7 Entry and Inspection**

1. The city auditor, or his designee, shall have the right to enter upon the sites of improvements, public or private, for inspection and data collection purposes, and shall be furnished with

samples of materials as may be required for the making of tests to determine the acceptability of such materials.

2. The developer shall notify the auditor, or his designee, of the date and time that work on any improvements, as defined in this title, are expected to begin. Notifications are to be given not less than twenty-four (24) hours in advance of the time that the work is anticipated to start and if, thereafter, conditions develop to delay the start of the work, the developer shall notify the director of public works, or his designee, of the delay not less than two hours before work is scheduled to begin.
3. The developer shall notify the auditor of the date and hour work on any of the following items is expected to begin, notifications to be given not less than twenty-four (24) hours in advance of the time the work is anticipated to start, and if thereafter conditions develop to delay the start of the work, the developer shall notify the auditor of the delay not less than two hours before work is scheduled to begin.
  - A. Laying of sanitary sewer lines
  - B. Backfilling of sanitary sewer lines
  - C. Laying of water lines
  - D. Backfilling of water lines

#### **8.5.8 As-built Drawings and Monument Ties**

1. Upon completion and before acceptance of the subdivision improvements by the city, the developer shall be required to present to the city a set of "as-built" improvement drawings.
2. Upon completion of all required survey monumentation and before acceptance of the subdivision improvements, a licensed professional land surveyor responsible for the survey monuments within the development shall present a set of monument ties to the city.

#### **8.5.9 Plot and Grading Plans**

1. Whenever the developer plans to develop the area as a whole and to construct the structures thereon, he shall submit a plot and grading plan to the city auditor.
2. Plot and Grading Plan Information. The plot and grading plan shall contain information, as required by the director of each affected department, including, but not limited to, the following:
  - A. Footprint of new structure
  - B. Property lines with dimensions
  - C. Street names
  - D. Minimum setback lines as recorded on the final plat
  - E. Building setback lines dimensions, tied perpendicular to all property lines or radial to any curved property line
  - F. Finished floor elevations
  - G. Lot grading and drainage information
  - H. Driveway locations and slopes
  - I. Top-of-curb elevations at property lines and radius tangent points
  - J. Fire hydrant locations



- K. Street light locations
- L. North arrow and drawing scale
- M. Subdivision name
- N. Lot and block numbers
- O. Engineer's seal and signature
- P. Adjacent lot information
- Q. Utility lateral locations
- R. Ground equipment, doorway stoops and patio slab locations

#### **8.5.10 Public Sites**

1. Historic or Scenic Sites. The Planning Commission shall encourage the preservation of and/or may require the dedication or reservation of suitable areas for historic purposes.
2. Parks, Playgrounds and School Sites. The developer shall give due consideration to the allocation of areas suitably located and of adequate size for schools, playgrounds, playfields and parks for local or neighborhood use to be dedicated, reserved for common use by all the property owners within the subdivision by restrictive covenant, and/or reserved for acquisition by the city within a period of five years. To this end, the Planning Commission may recommend the dedication and/or reservation of sites for public purposes when deemed essential to the development of the area or neighborhood.

#### **8.5.11 Dedication and Improvements**

The developer shall improve or agree to improve all land dedicated or to be dedicated for streets, highways, public ways, flood channels and easements as a precedent to acceptance of such dedications(s) and approval of the final plat. Such improvements shall include all grading, surfacing, sidewalks, curbs, gutters, electric power and streetlights, traffic control devices, survey monumentation, culverts, telephone service lines, bridges, storm water facilities, sewer mains and house laterals, water services, water mains, fire hydrants, parkway areas, subsurface drainage, and/or such other improvements as recommended by the Planning Commission as conditions of approval of the final plat, necessary for the general use of the lot owners and local traffic and drainage needs.

#### **8.5.12 Completion of Public Improvements**

All public improvements required by all applicable laws and regulations shall be completely installed and constructed to the satisfaction of the City, or his designee, within the time set forth in this title, or as required by the city council, or his designee, unless the city council, or his designee, shall grant an extension of time for completion and if the bonds, cash guarantees, or other surety are renewed to cover the extension of time.

#### **8.5.13 Compliance with Other Laws**

No preliminary plat, final plat, out-lot survey map, boundary line adjustment map, or other maps for land division purposes, shall be approved if it violates or will result in the violation of any applicable zoning regulation or any other applicable law or regulation.